

1 Depoe Bay City Council
2 Regular Meeting
3 Tuesday, April 5, 2005 - 7:00 PM
4 Depoe Bay City Hall
5

6 PRESENT: Mayor J. White, P. Cameron, P. Taunton, A. Brown, G. Romans, J. Brown, M. Lavery
7

8 STAFF: City Recorder P. Murray, City Field Superintendent T. Owings, City Attorney D. Gordon,
9 City Planner, L. Lewis, Recording Secretary S. Fox
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11 I. PLEDGE OF ALLEGIANCE

12 Mayor White called for all to stand for the Pledge of Allegiance.
13

14 II. CALL TO ORDER

15 Mayor White called the meeting to order and established a quorum at 7:00 PM.
16

17 III. APPROVE MINUTES: March 14, 2005 Workshop Meeting and March 15, 2005 Executive and 18 Regular Meetings

19 Motion 1: Alice Brown moved to accept the minutes of the March 15, 2005 executive and regular
20 meetings, with the following two corrections to the regular meeting minutes: 1) On Page 2, Line 27: "...
21 the Ord. #256 definition of "structure". *Councilor Brown yielded to included Items A-D from the LUBA*
22 *Remand Summary, to include the issues of precedence and public safety.*" 3) On Page 2, Line 37: "...
23 adequate root system to facilitate drainage. *There will be some kind of warranty that if the plants died*
24 *they would be replaced.*" Romans seconded the motion.
25

26 Mayor White said it was moved and seconded, and called for discussion. There was none.
27

28 Vote: Motion 1 passed.

29 Ayes: Cameron, Taunton, Alice Brown, White, Romans, Jack Brown, Lavery
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31 IV. ACCOUNTS PAYABLE

32 Motion 2: Romans moved to pay the accounts payable. Alice Brown seconded the motion.
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34 Mayor White said it was moved and seconded, and called for discussion. There was none.
35

36 Vote: Motion 2 passed.

37 Ayes: Cameron, Taunton, Alice Brown, White, Romans, Jack Brown
38

39 Abstain: Lavery
40

40 V. SPECIAL ORDERS

41 A. D.B.R.F.P.D. Fire Chief Ron Smith – Insurance Services Periodic Evaluation of Depoe Bay 42 Fire District

43 Chief Smith reviewed the fire district packet dated March 8, 2005 (copy attached to original of these
44 minutes) regarding a meeting the same date that related to the Insurance Services Office evaluation of
45 the fire district, scheduled for July, 2005. He focused on the section relating to the water department, and

1 answered questions from Councilors. Smith also provided a brief update on the status of the Harbor Fuel
2 Project. He anticipates signing the fire permit upon his return next week.

3
4 B. District Attorney Barnett – Annual Report

5 Bernice Barnett discussed the Lincoln County District Attorney’s Office 2004 Annual Report (copy
6 attached to original of these minutes). She focused on the issues of drug use and drug-related crime, and
7 victims’ programs. She noted that one of the main components of methamphetamine, pseudoephedrine,
8 only has three sources worldwide, and that there is a real chance that methamphetamine can be
9 eradicated with cooperation from the pseudoephedrine manufacturers.

10
11 C. West Coast Bank – Terri Ellen and Mike Yost: Customer Services

12 Terri Ellen reviewed the Credit Card Processing for Depoe Bay West Coast Merchant Services report
13 (copy attached to original of these minutes) that was presented to the Council, summarizing the options
14 available for credit and debit card processing for harbor fuel purchases, and for utility billing. There was
15 discussion regarding potential time savings for City Staff, vandalism concerns, and record keeping. This
16 item will be discussed in Budget Committee.

17
18 VI. REPORTS OF OFFICERS, BOARDS, OR STANDING COMMITTEES

19 Dave DeBelloy, Harbor Commission liaison, reported 1) There is a waiting list for moorage this year.
20 2) Old pilings need to be removed to increase moorage spots. 3) He appreciated Chief Smith’s update
21 on the Harbor Fuel Project. 4) The fish cleaning station needs to have windows replaced, as dissimilar
22 metals are corroding; the Harbormaster will be following up on this. DeBelloy noted that a fish cleaning
23 station is also needed on the dock side of the harbor. In the interim, the Harbor Commission is looking
24 into getting a portable table to set up between Dock 2 and Dock 3. A Councilor noted he recently gave
25 away a stainless steel table to a neighbor but didn’t think it was being used; Mayor White said he would
26 follow up to see if the recipient would be willing to donate it to the City. 5) The Harbor Commission is
27 concerned that Harbormasters aren’t on the job long enough to really learn the harbor before they get
28 hired on in other City departments as full time employees. Because of this, the Harbor Commission
29 would like to see a full-time Harbormaster.

30
31 VII. PUBLIC COMMENT

32 Peggy Leoni, Fleet of Flowers, said there will be a fund raising fish dinner starting at 3:00 PM on April
33 19. Cost is \$10 per person. There will be a minimum of 20 kilted representatives of the City of Portland
34 Police Highland Brigade Drum and Bagpipe Band performing free concerts at Eden Hall in conjunction
35 with the Fleet of Flowers, which is in its 60th year. She noted that the Fleet of Flowers is funded 100% by
36 donations.

37
38 VIII. UNFINISHED BUSINESS

39 A. Findings, Conclusions of Law, and Final Order: LUBA Remand to Depoe Bay City Council –
40 Moreland v. City of Depoe Bay, LUBA No. 2004-101

41 Gordon reviewed the proposed Findings, Conclusions of Law, and Final Order (copy attached to original
42 of these minutes), with history relating to the matter included in the Findings. There was discussion
43 regarding the definition of “structure” as relates to the remand, and Gordon pointed out three distinct
44 items that were considered in preparing the Findings: 1) The proposed determination is that stabilization
45 walls are permitted structures in the P-F zone, because they are nowhere specifically defined in the
46 Depoe Bay Zoning Ordinance, yet they exist throughout the city; they have never been considered by the

1 Council to be structures for the purposes of the zoning ordinance. 2) The walls are helpful for public
2 safety and enhance the purpose of public use of that zone because they protect a cliff surface from
3 erosion and collapse, and protect the intended park use below. 3) Ord. #256 clarifies the City Council's
4 intended definition of "structure" as meaning "something with four walls and a roof", and using this as
5 the City's definition of "structure", these stabilization walls are not structures. Discussion followed. A
6 Councilor noted that there is a definition for "retaining wall" in Ord. #256, which does not utilize the
7 word "structure". She re-iterated that Ord. #256 takes precedence over the initial definition of
8 "structure", based on what is stated in definitions, which came from either State or Federal agencies. She
9 also wanted it noted that the property is in the flood hazard zone, and that a definition of "retaining wall"
10 from Ord. #256 be included in the Findings.

11

12 Mayor White called a 10-minute recess at 8:29 PM. The meeting reconvened at 8:40 PM.

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14 Gordon proposed the following addition to Page 4, Subsection J of the Findings: *"Similarly, Ord. #256*
15 *provides that a 'retaining wall' is a wall constructed for the purpose of holding back soil. The definition*
16 *of 'retaining wall' does not include the term 'structure'.*

17

18 Motion 3: Cameron moved to include Gordon's proposed amendment to the Findings, Conclusions of
19 Law, and Final Order. Romans seconded the motion.

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21 Mayor White said it was moved and seconded, and called for discussion. There was none.

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23 Vote: Motion 3 passed.

24 Ayes: Cameron, Taunton, Alice Brown, White, Romans, Jack Brown, Lavery

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26 Motion 4: Cameron moved to approve the Findings, Conclusions of Law, and Final Order as amended,
27 and authorize the mayor to sign the same, and provide all notices required by law. Alice Brown seconded
28 the motion.

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30 Mayor White said it was moved and seconded, and called for discussion. There was none.

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32 Vote: Motion 4 passed.

33 Ayes: Cameron, Taunton, Alice Brown, White, Romans, Jack Brown

34 Noes: Lavery

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36 B. Proposed Restroom Facility Lease Agreement – Robison Brothers

37 Murray summarized the draft lease agreement (copy attached to original of these minutes) and the
38 changes from the first agreement, and noted that the Robison Brothers signed off on it.

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40 Motion 5: Lavery moved to approve the Restroom Facilities Lease Agreement with the Robison
41 Brothers, and authorize the mayor to sign. Taunton seconded the motion.

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43 Mayor White said it was moved and seconded, and called for discussion. There was none.

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45 Vote: Motion 5 passed.

46 Ayes: Cameron, Taunton, Alice Brown, White, Romans, Jack Brown, Lavery

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2 IX. NEW BUSINESS

3 A. Proposed Resolution #346 – Authorizing Application for a Local Government Grant from the
4 Oregon Parks and Recreation Dept. for Land Acquisition/Expansion of Depoe Bay City Park
5 Murray read proposed Res. #346 (copy attached to original of these minutes) into the record. She noted
6 that the resolution is a required part of the application packet for the grant. There was discussion about
7 possible future development of the park land.

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9 Motion 6: Laverty moved to adopt proposed Res. #346 and authorize the mayor to sign. Alice Brown
10 seconded the motion.

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12 Mayor White said it was moved and seconded, and called for discussion. A Councilor pointed out an
13 inconsistency in the naming of South Depoe Bay Creek. Murray noted the word “Bay” will be added to
14 the resolution title.

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16 Vote: Motion 6 passed.

17 Ayes: Cameron, Taunton, Alice Brown, White, Romans, Jack Brown, Laverty

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19 B. Schedule Council Workshop Meeting for Review of City Commissions and Committees
20 The workshop meeting was scheduled for Monday, April 18, 2005, at 6:00 PM.

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22 X. CORRESPONDENCE

23 Murray reported there were six items of correspondence (copies attached to original of these minutes):
24 1) A letter from Millenium Digital Media regarding changes in service. 2) A letter from Hugh Mayes
25 regarding a suggested moratorium on new construction of multiple housing units until the new water
26 storage tank is complete, and encouraging pursuit of a police presence in Depoe Bay. 3) A letter from
27 Larry Hardy regarding cleanup efforts, view of the harbor from Hwy 101, and requesting paving of
28 Hawkins Street. 4) A letter from the National Conference of Black Mayors inviting Mayor White to
29 become a member. Cost to the City would be \$300, based on population.

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31 Motion 7: Jack Brown moved to authorize membership for the mayor in the National Conference of
32 Black Mayors. Taunton seconded the motion.

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34 Mayor White said it was moved and seconded, and called for discussion. There was none.

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36 Vote: Motion 7 passed.

37 Ayes: Cameron, Taunton, Alice White, Romans, Jack Brown, Laverty

38 Abstain: White

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40 Correspondence, cont.

41 5) A letter from Oregon Coastal Management Program Department of Land Conservation and
42 Development regarding the 306A grant application that the City submitted recently to supplement
43 funding for the Harbor Overlook Scenic Land Acquisition. The application was declined. 6) A letter
44 from Lester Fultz regarding stabilization and removal of material on Austin Street. This letter was sent
45 in response to written requests from the City Field Superintendent.

1 XI. STAFF REPORT

2 Owings reviewed his written report (copy attached to original of these minutes), providing updates and
3 covering the following issues: Pirate’s Cove Sidewalk Project, Water Improvement Project, Winchell
4 Street Improvements, Harbor Fuel System, Harbor Dredging Project, Collins Street Project, Mr.
5 Watkins’ request to open up Park Avenue, and options for removal of an abandoned travel trailer on
6 Stanley Street. It was the consensus of the Council that City Crew should break down the trailer and haul
7 it away. Owings also noted the Coast Guard was extremely helpful last week in raising the boat that sank
8 in the harbor. A Councilor suggested Owings write a letter of thanks to the Coast Guard. He reported on
9 the complaints Mr. Watkins brought up at the last meeting, saying that each complaint filed had been
10 followed up on and appropriate actions taken; it is a recurring problem at the same location.

11
12 Murray had no report.

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14 XII. COUNCIL COMMENTS

15 Laverty reported that on March 18 he attended a Council of Government meeting on Measure 37 with
16 the City Attorney. Gordon added that if a fee is imposed for filing a Measure 37 claim but the claimant
17 does not pay the fee, the City needs to process the claim anyway.

18
19 Cameron requested that an agenda item be scheduled to discuss a possible scoop law in Depoe Bay.
20 Mayor White said that would be done.

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22 XIII. ADJOURN

23 There being no further business, the meeting was adjourned at 9:31 PM.

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Mayor James White

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Silver Fox, Recording Secretary